

REMARKS

Amendments to the Claims

As requested by the Examiner, Applicant has canceled, without prejudice, claims 1-13 and 19-26, drawn to nonelected subject matter. Applicant reserves the right to pursue canceled subject matter in any application that claims priority herefrom.

Applicant has amended claim 14 to recite that the buttons "extend from the locking flap" and that the outer closure mechanism extends "from the lid." Support for the amendments is found throughout the specification at, e.g., page 6, line 4 to page 7, line 26, as well as in the figures as filed.

Applicant has further amended claim 14 to delete "is," thereby correcting an inadvertent typographical error.

Applicant submits that the amendments constitute no new matter; their entry is respectfully requested.

In sum, claims 14-18 are pending.

THE OFFICE ACTION

The Rejection Under 35 U.S.C. § 102(b)

Claims 14-16 Are Not Anticipated By Warburton

The Examiner has maintained the rejection of claims 14-16 as being anticipated under 35 U.S.C. § 102(b) by U.S. Patent No. 3,735,917 issued to Warburton ("Warburton"), for the reasons previously set forth in the Office Action dated April 7, 2006. The Office Action has indicated that the Examiner has considered Applicant's remarks made in the response mailed September 7, 2006, but contends that the arguments are not persuasive.

The Examiner contends that Applicant's arguments are directed to the orientation of the recess surface **20**, and not to the orientation of the latching bar **22**, which the Examiner has identified as meeting the limitation of the button. The Examiner cites to Figure 3 of Warburton and his hand-written comments thereon. The Examiner contends that it is clear that the latching bars **22** (the button) disposed on the locking flap

extend outwardly so as to extend into closing apertures **23** of the lid allowing the detent edge **17** to engage the latching bar **22**.

Moreover, the Examiner contends that the latching bar **22** extends outwardly as is claimed, and as inwardly extending member of the outer closure mechanism of the lid is both received in the inwardly recessed pocket of the inner closure mechanism of the locking flap and as it extends inwardly, *i.e.*, opposite the direction of the outwardly extending latching bar **22**, the claim is anticipated by Warburton.

The Examiner further contends that, with respect to claim 15, the inner closure mechanism further contains an outwardly extending member located above the inwardly recessed pocket, and that the claim does not set forth that the outwardly extending member is immediately above the inwardly recessed pocket.

The Examiner alleges that, with respect to claim 16, the outwardly extending member of the locking flap and the inwardly extending member of the lid have reciprocally projecting feet.

Finally, the Examiner acknowledges that no structure has been set forth with respect to the claimed "feet," and thus submits that the reciprocally projecting overall structures of outwardly extending member of the locking flap and the inwardly extending member of the lid of Warburton comprise "feet."

Applicant respectfully traverses this rejection.

To support a rejection under 35 U.S.C. § 102(b), each and every feature of the rejected claim must be disclosed in a single prior art reference. Contrary to the suggestions of the Examiner, Warburton does not disclose each and every feature of the claimed invention.

Claim 14, as amended, recites a two-way locking mechanism including a flap having a plurality of buttons which extend from the locking flap in a first direction, and a lid having an outer closure mechanism which extends from the lid in a second direction opposite the buttons. Applicant respectfully submits that Warburton does not disclose each and every feature of the claims.

The Examiner contends that Applicant's arguments are directed to the orientation of the recess surface **20** and not to the orientation of the latching bar **22**. The

Examiner has construed "button" as disclosed by Warburton to be a latching bar 22 above the recess. However, Warburton discloses that the latching element is constituted by a

rectangular recess which is shorter in extent, than those which impart strength and guidance. A recessed surface 20 is connected to the main body of the flaps by webs 21. The essentially rectangular shaped recess terminates short of the upper edge of the flap to provide a latching bar 22 above the recess.

col. 4, lines 22-28.

Applicant submits that, contrary to the Examiner's position, the latching bar 22 is defined by the recess 20, which extends in the same direction as the purported outer closure mechanism; *i.e.*, inwardly from the lid toward the inside of the container. Hence, the surface of the locking bar 22, which engages the detents 16 in the lid as the inwardly extending surface 21 of the recess. Alternatively, the locking bar is flush with and defined as the portion of the latching flap above the recess 20. In either event the locking bar 22 does not extend (from the flap) in a direction opposite that of the outer closure mechanism—which the Examiner has construed to be the front wall recesses of the lid.

By contrast, the buttons of claim 14 extend in a first direction (*e.g.*, outwardly) from the locking flap, whereas the outer closure mechanism of claim 14 extends in a second direction (*e.g.*, inwardly), and as such, extend in a direction opposite the buttons. Consequently, the features of Warburton relied upon by the Examiner disclose the buttons and the outer closure mechanism extend in the same direction, and not "opposite" directions as claimed.

In view of the above remarks and arguments, Applicant respectfully submits that Warburton does not anticipate the present invention, since Warburton does not disclose each and every feature of independent claim 14. Further, Warburton directly contradicts the configuration of the present invention, wherein the buttons and outer closure mechanism extend in opposite directions.

The Examiner contends that only claim 14 was argued. Applicant respectfully disagrees. Indeed, and as previously noted, because independent claim 14 is allowable, claims 15-17 are also allowable at least for depending therefrom. Moreover,

dependent claims 15-18 are further allowable for reciting additional features not disclosed by the prior art relied upon by the Examiner. For example, claims 15-18 recite additional features of the closure mechanisms not disclosed in the prior art. Accordingly, Applicant respectfully requests that the rejection of claims 14-17 under 35 U.S.C. § 102(b) be withdrawn.

The Rejection Under 35 U.S.C. § 103(a)

Claims 17 And 18 Are Not Obvious Over Warburton In View Of Hartman Or Artz

The Examiner has maintained the rejection of claim 17 under 35 U.S.C. § 103(a) as being unpatentable over Warburton in view of U.S. Patent No. 3,259,294 issued to Hartman ("Hartman"), and the rejection of claim 18 as unpatentable over Warburton in view of U.S. Patent No. 3,567,107 issued to Artz for the reasons made of record in the prior Office Action dated April 7, 2006. Applicant respectfully traverses these rejections.

"To establish a *prima facie* case of obviousness ... there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art references (or references when combined) must teach or suggest all the claim limitations." MPEP § 2143.

Applicant submits that Warburton does not disclose a two-way locking mechanism including a flap having a plurality of buttons which extend from the locking flap in a first direction, and a lid having an outer closure mechanism which extends from the lid in a second direction opposite the buttons. As such, Warburton cannot be used—alone or in combination with Hartman or Artz—to support a finding of obviousness, since neither Hartman nor Artz disclose or suggest the feature lacking in Warburton.

Moreover, because neither Hartman nor Artz disclose or suggest the feature lacking in Warburton, there can be no motivation to combine the references to achieve the two-way locking mechanism of the pending claims. Even if the combinations were proper, Applicant submits that the combination of references does not establish a *prima facie* case of obviousness as required under 35 U.S.C. § 103(a). Accordingly, Applicant respectfully submits that independent claim 14 is allowable over the prior art

of record, and because independent claim 14 is allowable, claims 17 and 18 are also allowable at least for depending therefrom.

For at least these reasons, Applicant submits that the Examiner has not established a *prima facie* case of obviousness under 35 U.S.C. § 103(a). Accordingly, Applicant respectfully requests that the rejection of claims 17-18 under 35 U.S.C. § 103(a) be withdrawn.

Formal Request for Interview

Applicant submits that the present application is in condition for allowance at least for the reasons set forth herein. If the present application is not considered to be in condition for allowance by the Examiner, and pursuant to M.P.E.P. § 713.09, Applicant requests an interview with the Examiner to discuss the present application and the prior art of record. Applicant's Attorney, Daniel J. Hulseberg, may be reached by telephone at (212) 408-2594 to schedule a mutually convenient date and time and to provide assistance or additional information as required.

Conclusion

On the basis of the foregoing Remarks, Applicant respectfully submits that the pending claims of the present application are allowable over the prior art of record. Applicant thus respectfully requests that the Examiner enter this Response and the amendments made herein, consider the remarks, and withdraw the rejections of the pending claims.

Applicant submits that this Response and amendments raises no new issues for consideration or necessitates the undertaking of any additional search of the art by the Examiner because all of the elements and their relationships were earlier claimed. This Response should therefore allow for immediate action by the Examiner.

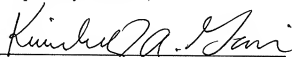
If the Examiner believes that entry of this Response is not appropriate at this time, Applicant respectfully petitions for a withdrawal of the finality of the present Final Office Action. Applicant considers the finality of the present Final Office Action to be improper because (i) Applicant requested a formal interview in Applicant's Response filed on September 7, 2006 to the Office Action mailed on April 7, 2006, which Office

Action was the first complete Office Action in the present application, and (ii) M.P.E.P. § 713.01 provides that "[w]here the reply to a first complete action includes a request for an interview, . . . the examiner, as soon as he or she has considered the effect of the reply, should grant such request if it appears that the interview . . . would result in expediting the case to a final action" (M.P.E.P. § 713.01, III). If such an interview had been timely granted, the Response submitted herewith would have been entered prior to the present Final Office Action.

Applicant also submits that entry of this Response would place the present application in better form for appeal, should the Examiner dispute the patentability of any of the pending claims.

Applicant believes that no fee is due in connection with the filing of this Response. However, Applicant authorizes, in the Fee Transmittal Form the Director to charge payment of any additional fees or credit any overpayment associated with this Response to Deposit Account No. 02-4377.

Respectfully submitted,



Kimberley A. Gavin, Reg. No. 51,723
Agent for Applicant

BAKER BOTTS L.L.P.
Customer No. 28763